

IN THE MATTER OF

BEFORE THE SCHOOL ETHICS COMMISSION

**MARY ANN BANCROFT-PIATKOWSKI,
RONALD LAWSON, PATTE BLOOD,
ELIZABETH O'CONNELL, GENE TANALA
RONALD SANASAC and HERBERT MASSA
*HOWELL TWP BOARD OF EDUCATION,
MONMOUTH COUNTY***

On October 28, 1997, Mr. Blashinsky appeared before the Commission. First, he questioned the appearance of the Howell Township board attorney since he did not complain against the board, but individual board members. Mr. Kasselmann responded that the case was brought against them for acts they did in their official capacity as board members. Mr. Blashinsky then went on to set forth the reason that he filed the complaint. He also stated that the board

members accused never denied violating the act but only stated that they did not know that they should not have accepted the tickets.

Mr. Kasselmann brought witnesses Patricia Dore, Secretary to the Superintendent of Schools, and Herbert Massa, but they did not testify. Mr. Kasselmann only made the legal argument that in Complaint C25-96, the Commission dismissed a case in which a board member had received tickets to a function directly from a board architect and found no violation. There, the Commission found that there was no information that he accepted the tickets based on the understanding that they were given for the purpose of influencing the board member in the exercise of his official duties. Thus, Mr. Kasselmann argued that if there was no violation in that case, there should be no violation in this case where the board members received their tickets from the Chamber of Commerce and not directly from any vendor.

During its public meeting of October 28, 1997, the Commission voted to find no probable cause and dismiss the complaint for the reasons set forth herein.

FACTS

The Commission was able to discern the following facts on the basis of the pleadings, testimony and documents submitted.

In August 1996, the Howell Chamber of Commerce (“Chamber”) decided to honor Superintendent of School Dr. Charles Kuzminski as Man of the Year. The Superintendent’s secretary, Patricia Dore, received a call from the Chamber’s administrator. She advised that invitations to attend the dinner at \$55.00 per person, had been sent to many members of the community and various professionals and vendors who had done business with the board in past years. Prior to the January 11, 1997 event, Ms. Dore received another call from the Chamber’s administrator. She advised that 40 tickets had been purchased by Board professionals and vendors and left with the Chamber for distribution because the purchasers did not want the tickets to go unused. A week before the dinner, Ms. Dore received those tickets to distribute to anyone in the school district interested in attending. She did not know which vendors bought the tickets or how much any of them spent. Ms. Dore made calls to determine who was interested in the tickets. When she called board members, she told them that tickets had been made available by the Chamber of Commerce to attend the dinner and asked if they wished to attend. Ultimately, Ms. Dore distributed the tickets to three vendors (5 seats), six board members¹ (12 seats), one food service worker (2 seats), four transportation department workers (4 seats) and fourteen secretaries (15 seats). She does not recall any person she contacted, including the complainant, questioning her further about the source of the tickets. However, Mr. Blashinsky states that when she contacted him, she said that the tickets were purchased by vendors.

¹ Two tickets were distributed to a board member who did not attend the function and thus, is not named in this complaint.

After Mr. Blashinsky filed this complaint, Ms. Dore inquired with the Chamber as to what vendors purchased tickets and how many. For the purposes of this decision, the Commission does not see the necessity to include this information. It is sufficient to say that six vendors of the board contributed to the purchase of 40 tickets. Ms. Dore stresses that the vendors purchased tickets at the Chamber's invitation to do so, not at the superintendent's or the board's. Also, the tickets had no identifying marks that would indicate whether a specific vendor had paid for that ticket.

ANALYSIS

The issue before the Commission is whether the above facts establish that any of the board members or Mr. Massa violated N.J.S.A. 18A:12-24(e) of the School Ethics Act by accepting the free tickets donated indirectly from the vendors and attending the Chamber dinner honoring the superintendent. The Commission will address the respondents separately since their circumstances are not identical.

Herbert Massa

Herbert Massa certifies that he purchased his own tickets to the Chamber of Commerce dinner and submits a copy of his canceled check to prove that he did so. Given this submission, it appears that he should not have been named in this complaint. Thus, the Commission finds no probable cause to credit the allegation that Mr. Massa violated subsection (e) and dismisses the complaint against him.

Mary Ann Bancroft-Piatkowski

Ms. Bancroft-Piatkowski certifies that she received two complimentary tickets directly from the Howell Township Chamber of Commerce. She did not receive them through Ms. Dore. She further certifies that she did not receive tickets from board vendors, but rather from the Chamber of Commerce, which is not a vendor. She also denies that she received any free drinks from the vendors and indicates that the food was included with the ticket. Ms. Dore confirms that she did not distribute tickets to Ms. Bancroft-Piatkowski. Ms. Bancroft-Piatkowski suspects that she was given the tickets because she was board president at the time or because she owns a business in the township. She does not know exactly why she was given the free tickets.

A violation of subsection (e) requires a finding that the school official be found to have accepted a gift based upon an understanding that the gift was given for the purpose of influencing her, directly or indirectly, in the discharge of her official duties. Ms. Bancroft-Piatkowski received her tickets from the Chamber as a body, and the Chamber is not a "business" that would seek contracts with the board. Thus, the Commission cannot find that respondent accepted the tickets based on the understanding that the statute requires. Although one could argue that the Chamber could be using the tickets to encourage the board's use of its members, most boards are already inclined to contract with local businesses and more evidence would be necessary to show

that she accepted the tickets based upon that understanding. Therefore, the Commission finds no probable cause to credit the allegations that Ms. Bancroft-Piatkowski violated subsection (e) and dismisses the charges against her.

Ronald Lawson, Patte Blood, Elizabeth O'Connell, Gene Tanala and Ronald Sanasac

The Commission will consider the case against all of these board members together since they all received tickets from Patricia Dore. All of them certify that they did not know that the tickets had been purchased by board vendors. They further certify that Ms. Dore told them when she called that they were tickets from the Chamber of Commerce that were extra or unused. Ronald Sanasac differs slightly in that he called to ask Ms. Dore how to purchase tickets and then she offered him the free ones left by the Chamber. Elizabeth O'Connell's case also differs slightly because she had already bought her ticket when Ms. Dore advised her that she had free ones from the Chamber of Commerce. Thus, the Chamber reimbursed her for her tickets.

The Commission has carefully considered the allegations against the respondents and each of their certifications in response and now concludes that there is no probable cause to credit the allegations that these respondents violated subsection (e). The respondents deny and there is no evidence to contradict that the above board members were not aware that any specific vendor had purchased tickets. Indeed, the vendors bought the tickets at the invitation of the Chamber. The vendors did not then give those tickets directly to the board members, but instead donated them to the Chamber for general distribution within the school district. Secretaries were the largest group of ticket recipients. If the board members did not know which vendors purchased tickets, they could not have accepted the tickets with the understanding that they would show favoritism toward those vendors in future votes. Based on the foregoing, there is no factual basis to support a finding of probable cause that the board members accepted the tickets based upon an understanding that the tickets were given to influence them in the discharge of their official duties. Thus, the Commission dismisses the charges against them.

DECISION

For the foregoing reasons, the Commission finds no probable cause to credit the allegations in the complaint that respondents violated N.J.S.A. 18A:12-24(e) of the School Ethics Act. Therefore, it dismisses the charges against them.

Respondent requests that the Commission impose sanctions against complainant for filing a frivolous complaint. Specifically, he requests sanctions as the complaint pertains to Herbert Massa, since he paid for his own tickets to the event. In order to find that a complaint is frivolous, the Commission must find on the basis of the pleadings, discovery, or the evidence presented that either:

- 1) The complaint...was commenced, used or continued in bad faith, solely for the purpose of harassment, delay or malicious injury; or

2) The nonprevailing party knew, or should have known, that the complaint...was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law. [N.J.S.A. 2A:15-59.1.]

The Commission does not find these standards to be met in this case. The Commission looks at the complaint as a whole and not specific allegations against separate individuals. In so doing there is no evidence that the complainant's sole purpose was to harass or maliciously injure the respondents. Regarding the second test, the complainant is not an attorney and he has not previously had any dealings with the School Ethics Commission such that the Commission could find that he should have known that the complaint would not have resulted in a finding of a violation. Thus, the Commission declines to impose sanctions for filing a frivolous complaint.

This decision is a final decision of an administrative agency. Therefore, it is appealable only to the Superior Court--Appellate Division.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision -- C08-97

Whereas, the School Ethics Commission has considered the pleadings filed by the parties and the documents submitted in support thereof and has considered the arguments raised by parties in executive session; and

Whereas, the Commission has found no probable cause to credit the allegations that respondent violated the School Ethics Act, N.J.S.A. 18A:12-21 et seq. and therefore dismisses the charges against them; and

Whereas the Commission has reviewed the proposed decision of its staff; and

Whereas, the Commission agrees with the proposed decision;

Now Therefore Be It Resolved that the Commission hereby adopts the proposed decision referenced as its decision in this matter and directs its staff to notify all parties to this action of the Commission's decision herein.

Paul C. Garbarini, Chairperson

I hereby certify that the Resolution
was duly adopted by the School
Ethics Commission at its public meeting
on October 28, 1997.

Lisa James-Beavers
Executive Director